

IN THE  
UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

MAR 10 1969

UNITED STATES OF AMERICA,

Appellee,

vs.

No. 22,731

TERRY LAWRENCE WARD,

Appellant.

UNITED STATES OF AMERICA,

Appellee,

vs.

No. 22,806

ORLANDO LOUIE DURAN,

Appellant.

PETITION FOR REHEARING

FILED

DEC 23 1968

WILLIAM B. LUCK, CLERK

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1 UNITED STATES COURT OF APPEALS

2 FOR THE NINTH CIRCUIT

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4 UNITED STATES OF AMERICA, )

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12 vs. )

No. 22,806

13 ORLANDO LOUIE DURAN, )

14 Appellant. )

15  
16 PETITION FOR REHEARING

17  
18 Appellants herein petition this Court for a rehearing  
19 and reconsideration of the judgment of the Court entered on or  
20 about November 29, 1968, on the ground that significant Consti-  
21 tutional questions were not adequately considered.

22  
23 In this regard Appellants respectfully direct this  
24 Court's attention to the order of the United States Supreme  
25 Court of June 10, 1968, granting Certiorari in the matter of  
26 Leary vs. United States.



1 Certiorari therein was granted, limited to Questions  
2 I and IV, presented by the petition therein which read as  
3 follows:

4 "I. Whether the registration and tax provisions  
5 in 26 U.S.C. Sections 4741(a), 4742 and 4744(a),  
6 as applied to Petitioner, violate his privilege  
7 against self incrimination protected by the Fifth  
8 Amendment to the United States Constitution and  
9 his rights thereunder as amplified by this Court  
10 in three recently decided cases: Marchetti v.  
11 U.S., 390 U.S. 39 (1968); Grosso v. U.S., 390  
12 U.S. 62 (1968); and Haynes v. U.S., 390 U.S. 85  
13 (1968)."

14 "IV. Whether Petitioner was denied due process  
15 under the Fifth Amendment by the application,  
16 under the circumstances of this case, of the  
17 provisions of 21 U.S.C. § 176a, providing that  
18 an inference may be drawn respecting the illegal  
19 origin and nature of marihuana solely from  
20 possession thereof."

21  
22 In view of the consideration by the United States  
23 Supreme Court of these vital Constitutional issues which are  
24 also present in the instant case, Appellants herein respect-  
25 fully request this Honorable Court to stay the mandate herein

26 \*\*\*\*\*

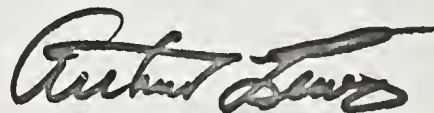


1 pending decision of the matter by the United States Supreme  
2 Court.

3  
4 Respectfully submitted,

5 

6  
7 Harvey Byron  
8 Attorney for Appellant, Terry  
Lawrence Ward

9  
10  
11 

12  
13 Arthur Lewis  
14 Attorney for Appellant, Orlando  
Louie Duran





AFFIDAVIT OF SERVICE BY MAIL

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF LOS ANGELES )

I, MARIA ADELINA PERIZ, declare:

I am a citizen of the United States, over 18 years of age, and not a party to the within cause; my business address is 205 South Broadway, Suite 802, Los Angeles, California 90012. On December 17, 1968, I served a copy of the attached PETITION FOR REHEARING on each of the following by placing same in an envelope addressed, respectively, as follows:

William Matthew Byrne  
1200 U.S. Court House  
312 North Spring Street  
Los Angeles, California 90012

Michael D. Nasatir  
1200 U.S. Court House  
312 North Spring Street  
Los Angeles, California 90012

United States Court of Appeals  
Ninth Circuit  
P. O. Box 547  
San Francisco, California 94101  
Attention: William B. Luck

Each of said envelopes was then, on December 17, 1968 sealed and deposited in the United States Mail at Los Angeles, California, the county in which I am employed, with postage thereon fully prepaid.

*Maria Adelina Perez*  
MARIA ADELINA PEREZ

Subscribed and sworn to before me  
this 17th day of December, 1968.

*Elizabeth J. Turner*  
Notary Public in and for said  
County and State

